

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

JESS H. WRIGHTSON,

Plaintiff,

vs.

DOUBLETREE DTWC LLC,

Defendant.

CV 17-107-M-DWM

ORDER

In May 2017, Plaintiff Jess H. Wrightson (“Wrightson”) sued Defendant Doubletree DTWC LLC (“Doubletree”), in the Montana Fourth Judicial District Court, Missoula County, alleging he was wrongfully discharged from his employment in violation of Montana law. (*See* Doc. 1-1, 6.) Doubletree did not answer but rather, on August 8, 2017, removed the matter to this Court, (Doc. 1), and subsequently filed a motion to dismiss for failure to state a claim pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, (Docs. 3, 4). Doubletree sought relief on the grounds that Wrightson’s complaint provided no factual detail or support for his wrongful discharge claim in violation of Rule 8(a)(2).

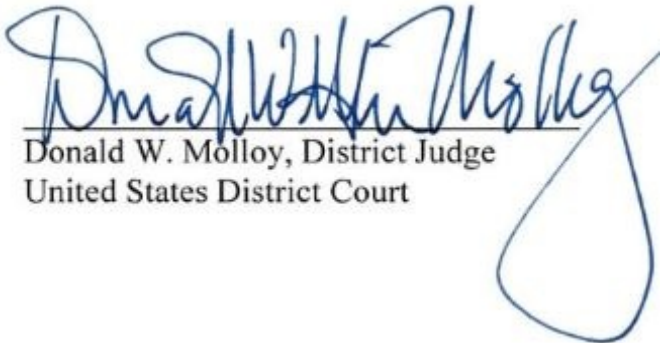
Wrightson then filed an amended complaint, (Doc. 7), which he believes moots Doubletree’s motion, (Doc. 8). Doubletree did not file a reply, but answered the

amended complaint. (Doc. 9.)

Pursuant to Rule 15(a)(1)(B), a party may amend its pleadings once as a matter of course “if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.” Wrightson filed his amended complaint within 21 days of Doubletree’s motion to dismiss. Because his amended complaint becomes the operative complaint, it renders the pending motion to dismiss moot. *Ramirez v. Cnty. of San Bernardino*, 806 F.3d 1002, 1008 (9th Cir. 2015).

Accordingly, IT IS ORDERED that Doubletree’s motion to dismiss (Doc. 3) is DENIED as MOOT.

DATED this 14th day of September, 2017.



Donald W. Molloy, District Judge
United States District Court